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September 15, 2015

**VIA ELECTRONIC & US MAIL**

Ms. Stephanie Vaughn  
ATTN: Lower Passaic River Remedial Project Manager  
Emergency and Remedial Response Division  
U.S. EPA, Region 2  
290 Broadway, 19th Floor  
New York, New York 10007

**Re: Monthly Progress Report No. 100 – August 2015  
Lower Passaic River Study Area (LPRSA) Remedial Investigation/Feasibility Study  
(RI/FS)  
CERCLA Docket No. 02-2007-2009**

Dear Ms. Vaughn:

**de maximis, inc.** is submitting this Monthly Progress Report for the above-captioned project on the behalf of the RI/FS Agreement Settling Parties (Cooperative Parties Group or CPG) pursuant to the Administrative Settlement Agreement and Order on Consent (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 42 of said Settlement Agreement. The CPG has revised this Progress Report to address the Region's direction in its September 1, 2015 letter about Section (d).

**(a) Actions which have been taken to comply with this Settlement Agreement during the previous month.**

**Meetings/Conference Calls**

- On August 26, EPA Region 2 (Region 2), Region 2 consultants, CPG and CPG consultants held a conference call to discuss CPG's Proposed Exposure Depth Sampling Survey.

**Correspondence**

- On August 17 and 18, CPG and Region 2 exchanged emails regarding the status of Exposure Depth Dispute Resolution, the draft 17-mile Baseline Ecological Risk Assessment (BERA) and draft 17-mile Baseline Human Health Risk Assessment (BHHRA) Responses to Comments (RTCs).
- On August 17, CPG's contractor received a request from Region 2's contractor for updates to reconcile the Passaic River Databases.
- On August 17, CPG submitted the July Monthly Progress Report to Region 2.
- On August 18, CPG requested a discussion with Region 2 regarding the EPA's contractor request for updates to the databases.

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- On August 21, CPG submitted to Region 2 RTCs and revised exposure assumptions on the draft 17-mile BHHRA.
- On August 24, CPG provided a suggested date and time to Region 2 for a call regarding the CPG's proposed Exposure Depth Sampling Survey that Region 2 confirmed.
- On August 25, CPG requested an update from Region 2 on the status of action items from the July 29, 2015 conference call.
- On August 26, CPG provided presentation slides on the proposed Exposure Depth Sampling Survey to Region 2 for use in the scheduled conference call.

**Work**

- CPG Modeling Team continued work on refinement of the Newark Bay component of the LPRSA Model.
- CPG continued responding to Region 2's COPC mapping information requests and review of the Region's COPC Mapping White Paper.
- CPG continued review of Region 2's comments on CPG's Benthic Community Exposure Depth utilized in the 17-mile LPRSA RI/FS Bioaccumulation Model and associated with Dispute Resolution.
- CPG began preparation of select QAPP Worksheets for the proposed Exposure Depth Survey as discussed with Region 2 during the August 26 conference call.
- CPG continued responding to Region 2 comments received on previously submitted draft 17-mile LPRSA RI/FS deliverables.
- CPG completed preparing responses to Region 2 comments on the draft 17-mile BERA.
- CPG completed preparing responses to Region 2 comments on the draft 17-mile BHHRA

**(b) Results of Sampling and Tests**

- None.

**(c) Work planned for the next two months with schedules relating to the overall project schedule for RI/FS completion**

- CPG will continue responding to Region 2 comments on previously submitted 17-mile LPRSA RI/FS deliverables.
- CPG will complete preparation of a draft QAPP for the proposed Exposure Depth Survey and initiate the survey if approved by Region 2.
- CPG Modeling Team will continue responding to Region 2 questions on COPC mapping.
- CPG will continue to responding to Region 2 questions on CPG approach for Benthic Community Exposure Depth subject to Dispute Resolution.
- CPG Modeling Team will continue work on refinement of the Newark Bay component of the LPRSA Model.

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**(d) Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays.**

The CPG has agreed to retain only near-term problems and concerns in the monthly reports moving forward pursuant to the direction in Region 2's September 1 letter; however, previous Progress Reports through July 2015 document in Section (d) significant issues and matters largely the result of actions and decisions by the Region and its Partner Agencies that have significantly delayed and complicated the completion of the 17-mile RI/FS. The removal of this previous information does not in any way lessen its impact on the completion of the 17-mile RI/FS.

- **Remedial Investigation (RI) Report** – The CPG submitted the Draft 17-mile RI Report on February 18, 2015. Region 2 has not provided a definitive date to deliver comments on the draft report. Extended delay in providing the comments will further delay the completion of the 17-mi RI/FS.
- **Feasibility Study (FS)** – The CPG submitted the Draft FS on April 30, 2015. The Region has not provided a definitive date to deliver comments on the Draft FS. In addition, Region 2 has not provided comments on the RAO/PRG Memorandum (submitted on March 27, 2015), Alternatives Screening Memorandum (submitted on April 16 and 21, 2015) and the Alternatives Evaluation Memorandum (submitted on April 26, 2015). Extended delay in providing the comments will further delay the completion of the 17-mi RI/FS.
- **Baseline Human Health Risk Assessment (BHHRA)** – The CPG submitted the 17-mile BHHRA on June 6, 2014 and the Region provided comments on June 5, 2015. The CPG and the Region conducted several teleconferences and exchanged correspondence throughout June and August 2015. The CPG provided responses to comments (RTC) on August 21, 2015. In addition, the CPG prepared responses to the Region's July 15, 2015 additional comments, which were submitted to the Region on September 1, 2015. As documented in the CPG's RTCs, many of the Region's comments direct the CPG to make changes to the BHHRA that are inconsistent with the Region 2-approved Problem Formulation Document and the CPG's October 2013 Risk Assessment and Risk Characteristic Plan and the associated Region 2's January 31, 2014 comments and USEPA risk assessment guidance. This is likely to delay the revision of the 17-mile BHHRA as the CPG and the Region continue to resolve these inconsistencies.
- **Baseline Ecological Risk Assessment (BERA)** - The CPG submitted the 17-mile BHHRA on June 13, 2014 and the Region provided comments on May 1, 2015. The CPG and the Region conducted several teleconferences and exchanged correspondence throughout May and July 2015. The last teleconference was conducted on July 29, 2015, during which the Region requested the CPG provide a

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list of action items. The action items were provided on July 30 and included three items for Region 2 and one item for the CPG that required the Region's input. ; the Region has not responded. The CPG will provide 17-mile Draft BERA responses to comments (RTCs) in early September 2015. As documented in the CPG's RTCs, many of the Region's comments direct the CPG to make changes to the BERA that are inconsistent with the Region 2- approved Problem Formulation Document, the CPG's October 2013 Risk Analysis and Risk Characterization Plan and the associated Region 2's January 31, 2014 comments, and USEPA risk assessment guidance. Specifically, the Region after an extended delay has introduced during June and July 2015 a Sediment Quality Triad and Reference Methodology that is wholly inconsistent with EPA guidance. This is likely to delay the revision of the 17-mile BERA as the CPG and the Region continue to resolve these inconsistencies.

- **COPC Mapping** - The CPG began discussions with the Region regarding COPC mapping in May 2013 with the submission of the "Lower Passaic River Surface Sediment Concentration Mapping Technical Memorandum". The CPG has attempted, but was unable to conduct significant and meaningful dialogue with the Region on COPC mapping between that time and early 2015. COPC Mapping is an integral part of the 17-mile RI/FS including the chemical fate and transport modeling and the identification and evaluation of remedial alternatives. Both the mapping approach and data density are consistent with mapping and data density at other large sediment sites such as the Hudson River, Fox River, and the Lower Duwamish. The Region and CPG representatives met on March 18, 2015 to discuss the CPG's mapping and agreed to follow-on discussions. The Region and the CPG agreed to meet on June 16, 2015 and the Region stated that it would provide its portion for the CPG's review in advance of the meeting. The Region provided its position paper on June 10, 2015. Due to the short-time frame and the complexity of the Region's responses, the CPG postponed the meeting. In a June 12 email, the CPG requested that the Region provide the underlying documentation for its June 10 position paper. The Region provided this material on July 20. The CPG is preparing a response to the Region's position paper which will document several significant shortcomings in the Region's analysis.
- **Exposure Depth/Zone(s)** – The CPG initiated discussions with the Region in early 2014 on the matter of an appropriate site-specific exposure depth for benthic invertebrates. EPA HQ, Region 2 and CPG representatives conducted a teleconference and web-meeting on February 13, 2014 to discuss this matter. The CPG provided additional material to the Region on February 19, 2014. The CPG was unable to engage the Region on this matter for the remainder of 2014. In January 2015, the Region and CPG agreed to meet to discuss the exposure depth and in advance of this meeting the Region and CPG exchanged information including a May 2014 paper on burrowing depth prepared by Region 2 contractors. EPA HQ, Region 2 and CPG representatives met on February 6, 2015. As a result of the meeting, it was agreed to have follow-on meetings and/or teleconferences

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later in February 2015; however, these meetings/teleconferences were subsequently cancelled by Region 2. On June 1, 2015, the Region provided a brief letter summarizing its rejection of the CPG's shallow exposure depth. The CPG invoked dispute resolution on June 12, 2015 and began preparation of a position paper. On June 25, the Region acknowledged the CPG's invocation of dispute resolution. On July 2, the CPG requested that the CPG provide the additional information mentioned in its June 25 letter that it relied upon. The Region responded on July 9 to the CPG's request. On August 18, 2015, the CPG contacted the Region and proposed to table dispute resolution and develop a sampling plan to determine LPR site-specific exposure zone(s). In advance of the August 26 teleconference, the CPG provided a brief presentation outlining data quality objectives and proposed sampling. As a result of the teleconference, the CPG agreed to provide draft QAPP worksheets for further discussion with Region 2. The CPG is concerned that the Region's decisions to include the Partner Agencies in the work plan development and require the inclusion of sediment chemistry sampling will unduly complicate and delay the development of an exposure zone sampling plan.

- **Other Documents** - There are number of reports and technical memos (both original and revised submissions) that have been submitted to Region since 2011 that the CPG is awaiting either approval or Region 2's comments. These reports include:

1. Lower Passaic River Surface Sediment Concentration Mapping Technical Memorandum – submitted May 2013
2. Upstream Reference Benthic Data Report – submitted August 2013
3. Background Sediment Data Report – submitted October 2013

The CPG has received the Region's comments on a number of previously submitted reports and is in the process of addressing revising and resubmitting these reports. Please advise the CPG of the Region 2's schedule for action on these remaining documents.

If you have any questions, please contact Rob Law or me at (908) 735-9315.

Very truly yours,

**de maximis, inc.**

  
Willard Potter  
CPG Project Coordinator

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cc: Sarah Flanagan, EPA Office of Regional Counsel  
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